

Application No: 09/998,855

Response Dated: March 7, 2005

Reply to Office Action Dated December 23, 2004

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**REMARKS**

Reconsideration of the present claims, in light of the attached claim clarifications and the Remarks, which follow, is respectfully requested.

Claims now before the Examiner are 1, 3, 5-7, 19-20, 23 and 24.

Support for the new claim 24 is found at paragraphs [0021-23], page 6.

Applicants' Agent thanks the Examiner for the Interview granted March 2, 2005.

The numbering in this response will follow that of the Examiner's Action.

1. No response necessary.
2. Claims 3, 7 and 23 are Objected to. Claims 3 and 7 have been clarified and set in independent format, claim 23 has been amended as per the request of the Examiner.

**Rejection Under 35 USC § 112**

3. *Claims 1, 3, 5-7, 19, 20 and 23 stand rejected under 35 USC § 112, first paragraph.*

The Examiner states that "...the specification, while being enabling for the polymerization catalyst being an early transition metal metallocene, does not reasonably provide enablement for the catalyst being anything else."

Applicants do not agree. Persons of skill in the catalyst arts would have no trouble utilizing the claimed gelling agents in a broad array of catalysts and catalyst types.

As discussed in the MPEP § 2164.08, "[T]o demand that the first to disclose shall limit his claims to what he has found will work or to materials which meet the guidelines specified for "preferred" materials in a process such as the one herein involved would not serve the constitutional purpose of promoting progress in the useful arts" quoting from *In re Goffe* 542 F.2d 564, 567; 191USPQ 429, 431 (CCPA 1976).

Most of the Examples in the MPEP discuss biotechnology cases where the skilled person has many fewer decades of developed science to draw from than the catalyst

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chemist. Therefore, the skilled catalyst chemist could surely follow the instructions in the present specification regardless of the specific catalyst area.

The scope of the claims must be less than or equal to the scope of the enablement. The scope of enablement, in turn, is that which is disclosed in the specification plus the scope of what would be known to one of ordinary skill in the art without undue experimentation" National Recovery Technologies, Inc. v. Magnetic Separation Systems, Inc. 166 F.3d at 1196

**Rejections under 35 U. S. C. § 102**

4. & 5. *Claims 1, 6, and 23 stand Rejected under 35 U. S. C. § 102(b) as Anticipated by US 4,536,487 (Specca).*

Specca suggests alkyl phosphates and transition metal alkoxides (column 2, lines 17-24). As amended, the present claims are not Anticipated by the Specca document.

Withdrawal of the Rejection is respectfully requested.

6. *Claims 1, 6, and 23 stand Rejected under 35 U. S. C. § 102(e) as Anticipated by US 6,066,714 (Putzig).*

Putzig suggests a composition comprising a titanium compound, a phosphorous compound, an amine and an optional cocatalyst. The preferred titanium compounds are titanium tetra hydrocarbyloxides (column 2, lines 30-31).

As amended, the present claims are not Anticipated by the Putzig document.

Withdrawal of the Rejection is respectfully requested.

7. No response necessary.

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Respectfully submitted,



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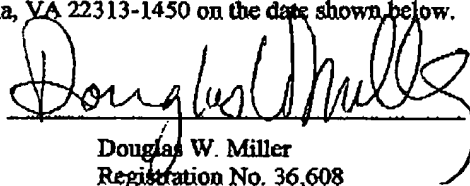
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March 7, 2005

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2000U055.US.1.111.3.7.05.doc

- 7 -